

Remarks

Claims 18-97 are pending in the subject application. Applicant notes that the Notice of Non-Compliant Amendment (37 CFR 1.121) was not attached with the Advisory Action mailed May 4, 2005. However, Applicant's undersigned representative was able to readily access the Notice of Non-Compliant Amendment from the Image File Wrapper of the Patent Application Information Retrieval (PAIR) database. The Notice indicates that claims 64-97 were not given the proper status identifier ("withdrawn") in Applicants' Amendment dated March 31, 2005. Applicant acknowledges that claims 64-97 have been withdrawn from further consideration as being drawn to a non-elected invention. By this Supplemental Amendment, Applicant has canceled claims 18-30, 44-49, and 77-82 and has provided the proper status identifier for claims 64-76 and 83-97 as "withdrawn" as required by the Notice of Non-Compliant Amendment. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 31-43 and 50-63 are currently before the Examiner. Favorable consideration of the pending claims is respectfully requested.

Applicant gratefully acknowledges the Examiner's withdrawal of the rejection for "obviousness-type" double patenting and the rejections under 35 USC §§102(b), 103(a), and 112, first paragraph, as indicated in the Office Action dated February 8, 2005. Applicant also gratefully acknowledges the Examiner's indication that claims 31-43 and 50-63 are allowed.

In the written Restriction Requirement dated May 18, 2004, the Examiner indicated that the process claims would be rejoined in the subject application if any of the elected product claims were found allowable. In view of the Examiner's indication that product claims 31-43 and 50-63 are allowed, it is respectfully requested that withdrawn process claims 64-76 and 83-97 (Applicant notes that claims 77-82 have been canceled by this Amendment) be rejoined in the subject application. Applicant notes that claims 64-97 were amended in the Amendment dated November 23, 2004 and entry of the amendments presented therein is respectfully requested. Applicant further notes that independent method claim 64 recites all the limitations of allowed product claim 31.

Claims 18-30 and 44-49 remain rejected under 35 USC §112, first and second paragraphs, on the grounds that the subject specification does not provide sufficient written description so as to reasonably convey to the skilled artisan at the time the application was filed that the inventor had possession of the claimed invention and as indefinite. The Examiner asserts that the subject

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specification does not show possession of the "identifying characteristics" such that one would be able to obtain the claimed feline T cells. The Examiner further asserts that a deposit of the cells would be required. The Examiner also asserts that the term "feline-derived" renders the claims indefinite.

Applicant respectfully asserts that the subject specification provides adequate written description to convey to the ordinarily skilled artisan that the inventor had possession of the claimed invention at the time the application was filed. Applicant also asserts that the claims are not indefinite. Applicant respectfully maintains that an ordinarily skilled artisan can readily obtain the cells already deposited with ATCC and can readily determine the "identifying characteristics" thereof. Identifying characteristics include, for example, the particular cell surface antigens expressed by the cells. A cell surface antigen expression profile can be readily determined using standard methods and materials, such as antibodies directed to specific cell surface antigens, that are commercially available and known in the art. Moreover, one of the important identifying characteristics of the claimed T cells is that the cells are IL-2 independent and do not require FIV infection for that IL-2 independence. This is an identifying characteristic that can be readily determined for a particular cell. However, as noted above, Applicant has canceled claims 18-30 and 44-49, thereby rendering these rejections moot. Accordingly, reconsideration and withdrawal of the rejections under 35 USC §112, first and second paragraphs, is respectfully requested.

Claims 27 and 28 remain provisionally rejected under the judicially created doctrine of "obviousness-type" double patenting over claims 19-63 of co-pending Application No. 10/408,701. Applicant respectfully asserts that claims 27 and 28 are not obvious over claims 19-63 of Application No. 10/408,701. However, by this Amendment, Applicant has canceled claims 27 and 28, thereby rendering this rejection moot. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicant's agreement with or acquiescence in the Examiner's position.

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In view of the foregoing remarks and amendments to the claims, Applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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